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February 23, 2023

FILED VIA SDNY ECF

Hon. Vernon S. Broderick
United States Courthouse
40 Foley Square
New York, NY 10007

Re: Fair Housing Justice Center, Inc. et al. v. Bassett et al., S.D.N.Y. 18-cv-3196

Dear Judge Broderick:

This office represents Defendants New York State Department of Health ("DOH") and James McDonald in his official capacity as acting Commissioner of DOH (collectively "State Defendants") in the above captioned matter. Tomorrow, pursuant to Magistrate Judge Lehrburger's February 9, 2023, Order (ECF No. 351), State Defendants will be filing papers in opposition to Plaintiffs' motion for partial summary judgment. See ECF No. 328. We write in accordance with Rule 5-B of this Court's Individual Rules & Practices in Civil Cases to seek permission to file certain medical records relating to plaintiff Jane Doe under seal.

Under Rule 5-B, "sensitive information" and "information requiring caution" may be redacted from public court filings without prior Court approval. The "Privacy Policy" referenced in Rule 5-B defines "sensitive information" as including social security numbers, names of minor children, dates of birth, financial account numbers, and home addresses. "Information requiring caution" is defined as including personally identifying numbers, medical records, employment history, individual financial information, proprietary or trade secret information, and information regarding cooperation with the government.

Certain exhibits that State Defendants will be filing as exhibits to the Declaration of Erin R. McAlister in Opposition to Plaintiffs' motion for partial summary judgment contain records that qualify as "sensitive information" and "information requiring caution" under the Privacy Policy. Because these records are relevant and necessary to State Defendants' opposition to Plaintiffs' motion for partial summary judgment, State Defendants request permission to file those records

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under seal.

Those records consist of the following exhibits, which are being filed concurrently with this letter motion:

McAlister Exhibit No.	Description of McAlister Declaration Exhibit
9	Transcript of the deposition of Plaintiff John Doe as a fact witness taken on November 18, 2021.
11	The August 8, 2022, Expert Rebuttal Report of Barbara C. Tommasulo, MD, CMD, LNHA, CWSP, without exhibits. Dr. Tommasulo is an expert witness for State Defendants.
12	The ACTS Complaint/Incident Investigation Report concerning the ACF <i>The Bristol at Westbury</i> , Bates stamped State Defs 00051549-51.
15	Transcript of the deposition of Jeffrey Nichols, MD as an expert witness for Plaintiffs, taken September 16, 2022.
16	Excerpts of Plaintiff Jane Doe's physical therapy records from Riverside Rehabilitation, Bates stamped Riverside 00002150-59.

Plaintiffs' counsel have consented to the filing under seal that State Defendants are requesting.

Respectfully submitted,



John Gasior
Assistant Attorney General
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cc: All counsel of record (via ECF)

Granted.

SO ORDERED:

7/19/2023



HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE